

By: Larson

H.B. No. 4050

A BILL TO BE ENTITLED

AN ACT

relating to exports of groundwater from a groundwater conservation district.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 36.113(d), Water Code, is amended to read as follows:

(d) This subsection does not apply to the renewal of an operating permit issued under Section 36.1145. Before granting or denying a permit, or a permit amendment issued in accordance with Section 36.1146, the district shall consider whether:

(1) the application conforms to the requirements prescribed by this chapter and is accompanied by the prescribed fees;

(2) the projected effect of the proposed production ~~[use of water]~~ unreasonably affects aquifer conditions, depletion, subsidence, existing groundwater and surface water resources, [or] existing permit holders, or registered wells that are exempt from the requirement to obtain a permit under this chapter or district rules;

(3) the proposed use of water is dedicated to any beneficial use;

(4) the proposed use of water is consistent with the district's approved management plan;

(5) if the well will be located in the Hill Country

1 Priority Groundwater Management Area, the proposed use of water
2 from the well is wholly or partly to provide water to a pond, lake,
3 or reservoir to enhance the appearance of the landscape;

4 (6) the applicant has agreed to avoid waste and
5 achieve water conservation; and

6 (7) the applicant has agreed that reasonable diligence
7 will be used to protect groundwater quality and that the applicant
8 will follow well plugging guidelines at the time of well closure.

9 SECTION 2. The heading to Section 36.122, Water Code, is
10 amended to read as follows:

11 Sec. 36.122. EXPORT [~~TRANSFER~~] OF GROUNDWATER [~~OUT OF~~
12 ~~DISTRICT~~].

13 SECTION 3. Section 36.122, Water Code, is amended by
14 amending Subsections (a), (b), (c), (d), (f), (g), and (h) and
15 adding Subsections (j-1), (j-2), and (r) to read as follows:

16 (a) If an application for a permit or an amendment to a
17 permit under Section 36.113 proposes the export [~~transfer~~] of
18 groundwater [~~outside of a district's boundaries~~], the district may
19 also consider the provisions of this section in determining whether
20 to grant or deny the permit or permit amendment.

21 (b) A district may promulgate rules requiring a person to
22 obtain a permit or an amendment to a permit under Section 36.113
23 from the district to export [~~for the transfer of~~] groundwater [~~out~~
24 ~~of the district~~] to:

25 (1) increase, on or after March 2, 1997, the amount of
26 groundwater to be exported [~~transferred~~] under a continuing
27 arrangement in effect before that date; or

1 (2) export ~~[transfer]~~ groundwater ~~[out of the~~
2 ~~district]~~ on or after March 2, 1997, under a new arrangement.

3 (c) Except as provided in Section 36.113(e), the district
4 may not impose more restrictive permit conditions on exporters
5 ~~[transporters]~~ than the district imposes on existing in-district
6 users.

7 (d) The district may impose a reasonable fee for processing
8 an application under this section. The fee may not exceed fees that
9 the district imposes for processing other applications under
10 Section 36.113. An application filed under ~~[to comply with]~~ this
11 section shall be considered and processed under the same procedures
12 as other applications for permits under Section 36.113 and shall be
13 combined with applications filed to obtain a permit ~~[for~~
14 ~~in-district water use]~~ under Section 36.113 from the same
15 applicant.

16 (f) In reviewing a proposed ~~[transfer of]~~ groundwater
17 export ~~[out of the district]~~, the district shall consider:

18 (1) the projected availability and demand for
19 groundwater ~~[of water]~~ in the district and the projected
20 availability and demand for water in the proposed receiving area
21 during the period for which the water supply is requested; and

22 (2) ~~[the projected effect of the proposed transfer on~~
23 ~~aquifer conditions, depletion, subsidence, or effects on existing~~
24 ~~permit holders or other groundwater users within the district, and~~

25 ~~[(3)]~~ the latest approved state water plan, regional
26 water plan, and ~~[approved]~~ district management plan.

27 (g) The district may not deny a permit based on the fact that

1 the applicant seeks to export [~~transfer~~] groundwater [~~outside of~~
2 ~~the district~~] but may limit a permit issued under this section if
3 conditions in Subsection (f) warrant the limitation, subject to
4 Subsection (c).

5 (h) The [~~In addition to conditions provided by Section~~
6 ~~36.1131, the~~] permit shall specify:

7 (1) the amount of water that may be exported from
8 [~~transferred out of~~] the district; and

9 (2) the period for which the water may be exported
10 [~~transferred~~].

11 (j-1) A term under Subsection (i) or (j) shall automatically
12 be extended on or before its expiration:

13 (1) to a term that is not shorter than the term of an
14 operating permit for the production of water to be exported that is
15 in effect at the time of the extension; and

16 (2) for each additional term for which that operating
17 permit for production is renewed under Section 36.1145 or remains
18 in effect under Section 36.1146.

19 (j-2) A permit automatically extended under Subsection
20 (j-1) continues to be subject to conditions contained in the permit
21 as issued before the automatic extension.

22 (r) This subsection applies only to a district that requires
23 separate operating permits to authorize groundwater production
24 associated with the export of groundwater. A permit holder
25 authorized to export groundwater under this section may not export
26 an amount of groundwater in excess of the amount of groundwater
27 authorized to be produced under one or more associated operating

1 permits. The district may authorize a permit holder to export an
2 amount that exceeds the amount authorized to be produced under
3 operating permits associated with the export authorization if:

4 (1) the district issues operating permits that vary in
5 the amount of groundwater authorized to be produced in:

6 (A) different years; or

7 (B) different permit terms; and

8 (2) the export authorization states that the permit
9 holder may not export an amount of groundwater greater than the
10 amount of groundwater authorized for the associated operating
11 permit during the corresponding year or permit term.

12 SECTION 4. Sections 36.122(k), (l), (n), (o), and (q),
13 Water Code, are repealed.

14 SECTION 5. This Act takes effect immediately if it receives
15 a vote of two-thirds of all the members elected to each house, as
16 provided by Section 39, Article III, Texas Constitution. If this
17 Act does not receive the vote necessary for immediate effect, this
18 Act takes effect September 1, 2017.